

January 29, 1998 (hereinafter “Babbitt House Test.”) at 18; *see also* Babbitt Grand Jury Testimony, July 7, 1999 (hereinafter “Babbitt Grand Jury Test.”) at 267:15-22.)

**2. The Babbitt-Eckstein Conversation of July 14, 1995**

The Report does not find that Secretary Babbitt’s testimony concerning his meeting on July 14, 1995, with Paul Eckstein was knowingly false. It does, however, credit Eckstein’s testimony before the Senate Governmental Affairs Committee ( the “Thompson Committee”) about the words Secretary Babbitt used in the meeting, namely, that Secretary Babbitt told Eckstein that White House Deputy Chief of Staff Harold Ickes had “directed” him to issue the Hudson decision “that day,” (Report at 452), and it does not credit Secretary Babbitt’s denial that he used those words or his recollection that he “probably” told Eckstein that Ickes “wanted” or “expected” a decision to be made “promptly” (*id.* at 456).

The Report concludes: “There is insufficient evidence to prove that Babbitt possessed the requisite intent to provide false testimony.” (*Id.* at 464.) That conclusion is justified for several reasons.

First, as the Report notes, Secretary Babbitt does not challenge the good faith of Paul Eckstein, (*id.* at 266, 286), and readily acknowledges that Eckstein’s recollection of some of the words used in a conversation that occurred years earlier may be accurate. (*Id.* at 452 n.796.)

Second, the gossamer distinctions between whether Ickes “expected” or “directed” a decision “promptly” or “that day,” (*id.* at 448) --- in light of the undisputed facts that Mr. Ickes never communicated with Secretary Babbitt with respect to the Hudson casino decision and that the Secretary made up the Ickes “white lie” as a way of terminating the Eckstein conversation (*id.* at 448, 455) --- simply would not bear the weight of a criminal prosecution.